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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Nigeria: Crimes under international law committed by Boko Haram and the Nigerian military in north-east Nigeria

BACKGROUND

Since Amnesty International's last submission to the Human Rights Council (AFR 44/1033/2015)[1] it has released two reports on the conflict in north east Nigeria. These reports document in great detail evidence of crimes under international law committed by both parties to the conflict. It is vital that Nigeria's new government immediately introduces safeguards to end human rights violations by its military and investigates crimes under international law by all parties. The cycle of violence in north-east Nigeria can only be broken by holding accountable those responsible.

BOKO HARAM

Amnesty International's report "'Our job is to shoot, slaughter and kill' Boko Haram's reign of terror in north-east Nigeria" (AFR 44/1360/2015)[2] found that since the start of 2014 Boko Haram members have killed more than 5,500 civilians and abducted more than 2,000 women and girls, as well as hundreds of men and boys. Boko Haram fighters have treated civilians under their control brutally. They have used torture or executions to enforce their rules, forced women and girls into marriage with their members or raped them, and recruited child soldiers. These acts amount to war crimes and crimes against humanity, which must be investigated and prosecuted.

Since February 2015, the Nigerian military, with support from the armed forces of Cameroon, Chad and Niger, forced Boko Haram out of major towns and some of its camps in Sambisa forest. Hundreds of civilians were able to return to government-controlled areas as a result and are seeking urgently-needed humanitarian assistance. However, Boko Haram continues to regularly kill civilians in hit-and-run attacks and suicide bomb attacks.

NIGERIAN SECURITY FORCES

In the course of security operations against Boko haram, Nigerian military forces have committed war crimes, acts which may amount to crimes against humanity, and other serious human rights violations. These acts are documented in Amnesty International's report "Stars on their shoulders. Blood on their hands. War crimes committed by the Nigerian military" (AFR 44/1657/2015)[3], released on 3 June 2015. They include:

- Deaths in custody: Since March 2011, more than 7,000 men and boys have died in military detention. Their deaths are often unrecorded and almost never investigated. Amnesty International gathered the data and the details of individual cases through visits to mortuaries, internal military reports, statistics recorded by local human rights activists and interviews with witnesses, former detainees, hospital staff, mortuary personal and military sources. The main causes of deaths were starvation, thirst, severe overcrowding that led to the spread of lethal diseases, torture and lack of medical attention, and the use of fumigation chemicals in unventilated cells. The highest death rates were recorded in Giwa barracks, Maiduguri, Borno state, in May, June and July 2013, where up to 180 deaths were recorded on some days. Amnesty International documented similar patterns of deaths in custody at Sector Alpha ('Guantanamo') in Damaturu, Yobe state and the Joint Task Force (JTF) Headquarters in Potiskum, Yobe state. Circumstantial evidence points to further deaths in custody at the Multinational JTF Headquarters at Baga, Borno state; 23 Armoured Brigade barracks, Yola, Adamawa state; and Presidential Lodge ('Guardroom') in Damaturu, Yobe state.

- Extrajudicial executions: At least 1,200 people, almost certainly many more, have been extrajudicially

[1] https://www.amnesty.org/en/documents/afr44/1033/2015/en/ and A/HRC/28/NGO/161 of 27 February 2015
[2] https://www.amnesty.org/en/documents/afr44/1360/2015/en/
[3] https://www.amnesty.org/en/documents/afr44/1657/2015/en/

executed by the military since February 2012, including the following cases:

- On 14 March 2014, Nigerian soldiers killed more than 640 recaptured detainees in Maiduguri, after they were released during a Boko Haram attack on Giwa barracks;

- On 18 April 2013, 64 detainees were taken out of their cells in Presidential Lodge ('Guardroom') in Damaturu, Yobe state, driven into the bush and shot at close range;

- On 14 February 2012, Nigerian soldiers opened fire on civilians in Duguri, an island in Lake Chad, Borno state. According to witnesses more than 200 people were killed. The killings appear to have been revenge for a Boko Haram attack two days earlier, in which at least two soldiers died.

- Torture and other cruel, inhuman or degrading treatment: The military has tortured suspects in custody and kept them in overcrowded cells, without access to adequate sanitary facilities, food, water or medical care. These conditions amount to cruel, inhuman or degrading treatment.

- Arbitrary arrests: Amnesty International estimates that since 2009 the Nigerian military has arrested at least 20,000 persons in areas of Boko Haram activity. On numerous occasions, particularly following Boko Haram raids, soldiers have used unreliable hidden informants to screen entire communities of villages and towns in Borno and Yobe states. The military has also arrested relatives of Boko Haram suspects in lieu of the suspect.

- Unlawful detention: In detention centres in the north-east and other locations in Nigeria, detainees have not had access to their families, lawyers or adequate medical attention. Those detained are held because they are allegedly members or supporters of Boko Haram, but most have never been charged and have not been brought before a court.

IMPUNITY

The Government of Nigeria has failed to take prompt and effective steps to investigate and hold accountable most perpetrators of serious crimes on all sides, including Boko Haram, Nigerian military forces and the state-sponsored militia known as the 'Civilian JTF'.

CRIMINAL RESPONSIBILITY

Amnesty International has concluded that these acts by the military constitute was crimes and may amount to crimes against humanity. Documentary evidence presented in Amnesty International's report shows clearly that senior military leaders were fully informed of the nature and scale of the crimes being committed and failed to take any meaningful measures to stop the violations. Amnesty International's report names five high-ranking military officials who were in charge of operations in north-east Nigeria from 2012 to date, as well as two Chiefs of Army Staff and two Chiefs of Defence Staff, who should be investigated for potential individual and command responsibility for these crimes.

RECOMMENDATIONS

Amnesty International urges the Human Rights Council to

- Adopt a resolution calling upon the Government of Nigeria to urgently initiate thorough, independent, impartial and transparent investigations into crimes under international law by all parties to the conflict and to seek regional and international assistance and advice in the conduct of these investigations and any subsequent prosecutions;

- Request a report on steps taken by the Nigerian government towards the implementation of its obligation to pursue truth, justice, reparation and guarantees of non-recurrence, including through the investigation and prosecution of crimes under international law committed by all parties to the conflict; and

- Ensure that it explicitly addresses human rights violations committed by Nigerian security forces and the Civilian JTF, as well as progress made in pursuing truth, justice, reparation and guarantees of non-recurrence, in its deliberations and requests for reports.

Amnesty International also urges the Human Rights Council and its members and observer states to urge Nigeria to:

- Respond positively to the requests to visit Nigeria made by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in fulfilment of recommendations Nigeria supported at the 17th session of the Universal Periodic Review (UPR) Working Group;[4]

- Develop and implement all necessary measures to put an end to the violations of human rights by security forces, including extrajudicial killings, torture and arbitrary arrests, in fulfilment of recommendations Nigeria supported at the 17th session of the UPR;[5] and

- Strengthen the system of independent monitoring in all detention facilities in accordance with the Optional Protocol to the Convention against Torture and establish a human rights monitoring system which has access to military detention centres Nigeria as recommended by member states and accepted by Nigeria at the 17th session of the UPR.[6]

Amnesty International urges the government of Nigeria to:

- Initiate independent, impartial, and thorough investigations into allegations of crimes under international law, including crimes against humanity and war crimes, committed by members of Boko Haram and the Nigerian military. Where sufficient admissible evidence is gathered, alleged perpetrators should be prosecuted in fair trials, without recourse to the death penalty;

- Ensure that its security forces and members of the Civilian JTF adhere strictly to their obligations under international human rights law and international humanitarian law, and in particular, implement safeguards to prevent the human rights violations set out above;

- Immediately close military detention facilities and transfer suspects to civilian authorities;

- Ensure that domestic law and practice relating to the detentions of suspects conform fully with international human rights treaties ratified by Nigeria and other applicable international human rights standards;

- Accept outstanding requests from the UN Special Rapporteurs on the promotion and protection of human rights while countering terrorism, and on the rights to freedom of peaceful assembly and of association to visit Nigeria; and

- Extend invitations to the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, and on extrajudicial, summary or arbitrary executions, as well as the Working Group on Enforced or Involuntary Disappearances to visit Nigeria.

A full set of Amnesty International's recommendations for the government of Nigeria is found in its two reports.

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[4] Recommendations 135.39 to 135.41, 16 December 2013 "Report of the Working Group on the Universal Periodic Review: Nigeria" United Nations Human Rights Council A/HRC/25/6.
[5] Recommendations 135.68 to 135.73, ibid.
[6] Recommendations 135.34, 135.73, 135.108 to 135.109 and 135.112, ibid.